

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Mitchell David Holbach,

Petitioner,

-vs-

Maggie Anderson, Executive Director of
the North Dakota Department of
Human Services, and Alex C.
Schweitzer, Administrator of the North
Dakota State Hospital,

Respondents.

Case No. 3:14-cv-06

**ORDER ADOPTING REPORT AND
RECOMMENDATIONS**

On August 19, 2014, the undersigned received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Holbach's challenges to his previous convictions be dismissed without prejudice; that Holbach's claims challenging the conditions of his confinement be dismissed without prejudice; that Respondents' motion to dismiss be granted; that Holbach's motions for an evidentiary hearing, to expand the record, for injunctive relief, and for removal be denied; and that Holbach's petition for habeas relief be dismissed without prejudice¹. Holbach has filed an objection to the Report and Recommendation.²

The undersigned has conducted a *de novo* review of Holbach's objections and finds they lack merit. In addition, the undersigned has reviewed the Report and Recommendation, along with the entire file, and finds that the Magistrate Judge's analysis is correct. Accordingly, the Court hereby adopts the Report and

¹ Doc. #24.

² Doc. #26.

Recommendation in its entirety. For the reasons set forth therein, Respondents' motion to dismiss³ is **GRANTED**; Holbach's motions for an evidentiary hearing⁴, to expand the record⁵, for injunctive relief⁶, and for removal from state court to federal court⁷ are **DENIED**; Holbach's petition for habeas relief is hereby **DISMISSED** without prejudice.

Based upon the entire record before the Court, dismissal of the motion is not debatable, reasonably subject to a different outcome on appeal, or otherwise deserving of further proceedings. The Court finds that any appeal would be frivolous, could not be taken in good faith, and may not be taken *in forma pauperis*. Holbach's motion for leave to appeal *in forma pauperis*⁸ is **DENIED**.

IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 2nd day of September, 2014.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court

³ Doc. #10.

⁴ Doc. #18.

⁵ Doc. #19.

⁶ Doc. #7.

⁷ Doc. #8.

⁸ Doc. #29.